UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BLEDAR HASA,

Plaintiff,

v.

TRIZA ELECTRICAL CORP. and CHRISTOPHER TRIANTAFILLOU,

Defendants.

No. 16-cv-6623

COMPLAINT FOR VIOLATION OF FAIR LABOR STANDARDS ACT, NEW YORK LABOR LAW, AND NEW YORK CITY HUMAN RIGHTS LAW

JURY TRIAL DEMANDED

Plaintiff Bledar Hasa ("Plaintiff"), by his undersigned counsel, alleges the following upon personal knowledge as to his own acts and upon information and belief as to all other matters.

JURISDICTION AND VENUE

1. This Court has jurisdiction over Plaintiff's FLSA claims pursuant to 28 U.S.C. §1331. This Court has jurisdiction over Plaintiff's NYLL and New York City Human Rights Law claims pursuant to 28 U.S.C. §1367.

2. Venue is proper in this District because a substantial part of the events giving rise to Plaintiff's claims occurred in this District, including Plaintiff's employment by Defendant, and because Defendant Triza's principal office is in this District.

FACTS

3. This is an action for failure to pay Plaintiff for hours worked over 40 per week, at overtime rates, in violation of the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.* (the "FLSA"), and the New York Labor Law (the "NYLL"), for retaliation in violation of the FLSA, 29 U.S.C. §215 and the NYLL §215, and for violation of the New York City Human Rights Law. Defendants misclassified Plaintiff as an independent contractor, when he was in fact an

employee, and as a result Defendants paid Plaintiff for only 40 hours per week or fewer when he worked at least as many as 60 hours per week. When Plaintiff complained about this misclassification, Defendant Chris Triantafillou called Plaintiff an "Albanian scumbag" and terminated him on the spot.

4. Plaintiff is an electrician. Plaintiff worked for Defendants for approximately six years, from 2010 through early November, 2016. Plaintiff's most recent agreed regular hourly rate was $25 per hour, and accordingly his overtime rate of time-and-one-half his regular hourly rate was $37.50 per hour.

5. Defendant Christopher Triantafillou is the sole owner of Triza Electrical Corp. ("Triza"). Triza's principal office is located at 35-11 36th Street, Suite 207, Astoria, New York. Defendant Chris Triantafillou, as the sole owner of Triza, makes all hiring and firing decisions, sets the hours of Triza's employees, sets the pay rate of Triza's employees, and exercises control over all of Triza's employees. On the single pay statement Plaintiff received toward the end of his employment, Triza was listed on the pay stub as Plaintiff's employer.

6. Throughout Plaintiff's employment, Defendants misclassified Plaintiff as an independent contractor and, accordingly, denied him overtime pay in violation of the FLSA and the NYLL.

7. Plaintiff regularly worked as many as sixty hours per week, and was only paid for 40 hours per week. Thus, for example, if in any given week Plaintiff worked 50 hours, he would be owed $187.50 (10 hours at time-and-one-half pay of $37.50) for that week plus liquidated damages under both the FLSA and the NYLL, for a total of $562.50. Plaintiff is owed similar amounts—including higher amounts for weeks in which he worked more than 50 hours—for each week of his six-year employment with Defendants.

8. Plaintiff never punched in or out on a time clock, and Defendants appear not to have kept accurate or complete time records of the hours Plaintiff worked.

9. Plaintiff was at all times an employee of Defendants and was controlled by Defendants. Defendants set Plaintiff's rate of pay; set Plaintiff's schedule including telling Plaintiff that he could not go home at the end of many work days until a job was complete; directed Plaintiff in his work; and provided work to Plaintiff and obtained all jobs on which Plaintiff worked. Plaintiff worked on a fixed schedule beginning at 7:30 a.m. most days, although on some days Plaintiff started working earlier when he had to pick up other employees with Defendants' van.

10. Plaintiff had no opportunity for profit or loss and was simply paid at an hourly rate. Plaintiff did not have any investment in Defendants' business.

11. Plaintiff and Defendants were involved in a long-term working relationship of six years in which the vast majority of Plaintiff's work was for Defendants.

12. Plaintiff was not able to, and never did, subcontract any of his work for Defendants to others.

13. Plaintiff did not seek or solicit customers. Plaintiff performed tasks, and worked on jobs, as they were assigned to him by Defendants.

14. Defendants' business was entirely reliant on Plaintiff's work, and his work was essential to Defendants' business. Defendants are electrical contractors. Plaintiff, as an electrician, was performing a task that was central to Defendants' business model. On many occasions, Plaintiff was the only employee of Defendants on a particular job. On one job, for Catholic Charities, Plaintiff worked for two years to complete the job for Defendants which

included working on many buildings and performing maintenance for the buildings. For some or all of that job, Defendants promised to pay Plaintiff $35 per hour but did not do so.

15. Plaintiff never entered into an independent contractor agreement with Defendants.

16. In or about early November, 2016, Plaintiff complained to Defendants that he was not being paid for all hours worked including overtime. In response, and as a direct result of Plaintiff's complaint, Defendant Chris Triantafillou called Plaintiff an "Albanian scumbag" in front of multiple witnesses and terminated Plaintiff.

17. Although Defendants paid Plaintiff on a company check, without taking any taxes out and without a pay stub, Plaintiff's final pay check was provided with a pay stub that admitted Plaintiff was an employee and the required taxes were deducted. In keeping with Defendants' practice, this pay stub stated that Plaintiff worked 40 hours although he worked more than that.

COUNT I

Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*: Failure to Pay Overtime

18. Plaintiff incorporates and re-alleges all of the preceding paragraphs as if they were fully set forth herein.

19. Plaintiff was an "employee" of Defendants within the meaning of the FLSA, 29 U.S.C. §203(e) and (g).

20. At all relevant times, Defendants have been an "employer" engaged in interstate "commerce" within the meaning of the FLSA, 29 U.S.C. §203.

21. At all relevant times, Defendants' business has had annual gross revenues in excess of $500,000. At all relevant times, Defendants and Plaintiff have been engaged in interstate commerce.

22. Defendants were required to properly pay Plaintiff all wages due including applicable overtime wages for all hours worked in excess of 40 hours in a workweek.

23. As a result of Defendants' misclassification of Plaintiff as an independent contractor, Defendants failed to pay Plaintiff all wages due including overtime wages of not less than one and one-half times the regular rate of pay for each hour worked in excess of 40 hours in a workweek to which Plaintiff was entitled under the FSLA, 29 U.S.C. §207.

24. Defendants' violation of the overtime requirements of the FLSA was part of their regular business practice and constituted a pattern, practice, and/or policy.

25. As a result of Defendants' violations of the FLSA, Plaintiff suffered damages by being denied overtime wages in accordance with the FLSA in amounts to be determined at trial, and is entitled to recovery of such amounts, liquidated damages in an amount equal to his unpaid wages, prejudgment and post judgment interest, reasonable attorneys' fees, and costs pursuant to 29 U.S.C. §216(b).

26. Defendants' unlawful conduct, as described above, was willful and intentional and/or was not in good faith. Defendants knew or should have known that the practices complained of herein were unlawful. Defendants knew that Plaintiff routinely worked in excess of forty hours per week and that Plaintiff was not paid for all hours worked.

27. Defendants have not made a good faith effort to comply with the FSLA with respect to the compensation of Plaintiff.

28. Because Defendants' violations of the FSLA have been willful, a three-year statute of limitations applies, pursuant to the FLSA, 29 U.S.C. §255(a).

COUNT II

New York Labor Law, Article 19: Failure to Pay Straight Time and Overtime

29. Plaintiff incorporates and re-alleges all of the preceding paragraphs as if they were fully set forth herein.

30. Plaintiff was an employee of Defendants within the meaning of theNYLL, Article 6, §190(2), and supporting New York regulations.

31. Defendants were an "employer" within the meaning of NYLL Article 6, §190(3), and any supporting regulations.

32. Defendants failed to pay Plaintiff for all hours worked up to 40 in a workweek, and overtime wages of not less than one and one-half times his regular rate of pay for each hour worked in excess of 40 hours in a workweek.

33. Defendants' failure to pay Plaintiff for all hours worked, and for overtime wages was willful and/or not in good faith within the meaning of NYLL, Article 19, §663. Defendants were aware of the requirements of the NYLL and continued to deprive Plaintiff of all wages owed.

34. Due to Defendants' violations of the NYLL, Plaintiff is entitled to recover from Defendants his unpaid wages, liquidated damages, reasonable attorneys' fees, costs, and pre-judgment and post-judgment interest.

COUNT III

Fair Labor Standards Act, 29 U.S.C. §215: Retaliation

35. Plaintiff incorporates and re-alleges all of the preceding paragraphs as if they were fully set forth herein.

36. Plaintiff engaged in a protected activity by complaining to Defendants that he was not being paid overtime in violation of the FLSA.

37. As a direct result, Defendants immediately terminated Plaintiff.

38. Defendants' adverse actions were in response to and/or causally connected to Plaintiff's engaging in a protected activity.

39. Plaintiff was harmed thereby.

COUNT IV

New York Labor Law §215: Retaliation

40. Plaintiff incorporates and re-alleges all of the preceding paragraphs as if they were fully set forth herein.

41. Plaintiff engaged in a protected activity by complaining to Defendants that he was not being paid overtime in violation of the NYLL.

42. As a direct result, Defendants immediately terminated Plaintiff.

43. Defendants' adverse actions were in response to and/or causally connected to Plaintiff's engaging in a protected activity.

44. Plaintiff was harmed thereby. Plaintiff is entitled to, among other things, $10,000 in statutory damages pursuant to the NYLL.

COUNT V

Discrimination in Violation of New York City Human Rights Law

45. Plaintiff incorporates and re-alleges all of the preceding paragraphs as if they were fully set forth herein.

46. By the actions described above, including referring to Plaintiff as an "Albanian scumbag" and terminating Plaintiff, Defendants discriminated against Plaintiff on the basis of his nation origin in violation of the New York City Human Rights Law.

47. As a direct and proximate result of Defendants' actions, Plaintiff has suffered harm.

48. As a direct and proximate result of Defendants' actions, Plaintiff has suffered emotional distress including humiliation and embarrassment for which Plaintiff is entitled to an award of damages.

49. Defendants' unlawful and discriminatory actions constituted malicious, willful and wanton violations of the New York City Human Rights Law for which Plaintiff is entitled to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court grant Plaintiff the following relief:

A. Award Plaintiff all statutory damages, compensatory damages, punitive damages, liquidated damages, pre-judgment interest, and post-judgment interest, and any other damages that may be just and proper;

B. Award Plaintiff his reasonable attorneys' fees, costs and expenses as authorized by law; and

C. Grant in favor of Plaintiff such other relief as may be just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

DATED: November 30, 2016

GARDY & NOTIS, LLP

By: *s/Orin Kurtz*
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